IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 24TH SEPTEMBER 2007 / 2ND ASWINA 1929

WP(C).No. 28285 of 2007(P)

OS.171/2007 of M.C.,PARAPPANANGADI
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PETITIONERS:
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1. K.P.ABDUL JABBAR,
S/O. AHAMEDKUTTY MUSLIAR,
PARANTHODI, CHENAKKALANGADI,
TENHIPALAM AMSOM DESOM.

2. T.P.MUHAMMED ALIAS CHINNAKUTTY HAJI,
S/O. IMBICHIKOYA,MANGATTU HOUSE,
AREEPARA CHENAKKALANGADI,
TENHIPALAM AMSOM DESOM.

3. P.K.FAISAL,S/O. K.T.MUHAMMED MASTER,
KARUKKANKANDATHIL HOUSE,
CHENAKKALANAGADI,
TENHIPALAM AMSOM DESOM.

4. T.P.ANVAR,S/O.IMBICHIKOYA,
THEKKORATH HOUSE, KELATTOODU,
CHENAKKALANAGADI,
TENHIPALAM AMSOM DESOM.
TIRURANGADI TALUK.

BY ADV. SRI.T.KRISHNAN UNNI

RESPONDENTS:

K.MUSTHAFA,S/O. MAMMED,
MUTTAYIL THODI, CHENAKKALANGADI,
THENHIPALAM AMSOM DESOM,
TIRURANGADI TALUK.

BY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 24/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N. KRISHNAN, J.

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W.P.C. NO. 28285 OF 2007

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Dated this the 24th day of September, 2007.

J U D G M E N T

This writ petition is filed with a prayer to direct the Munsiff, Parappanangadi to dispose of I.A.1286/07 in O.S.171/07 on its file only after disposing of Ext.P7 application and to stay all further proceedings in O.S.171/07.

2. Heard the learned counsel for the respondent in detail. This Court by Ext.P5 order directed the Munsiff Parappanangadi to dispose of the interim application in accordance with law. The circumstances under which that order was passed is as follows. The learned Munsiff granted a temporary injunction and later when the respondent entered appearance and filed a counter the Court passed another order that prima facie there is some force in the contention that the suit is not maintainable and therefore vacated the order of injunction and posted the interim injunction application for further hearing. It was under those circumstances the writ petition was filed and this Court

directed the Court below to consider and dispose of I.A. in a full-fledged manner.

3. In the I.A. there is a specific contention regarding the jurisdiction of the Court and the maintainability of the suit before the said Court. So, necessarily, it is also a matter that has been argued and to be considered by the Court below. When it is so and the matter is posted for orders the writ petitioner has approached this Court with a prayer to consider the maintainability issue as a preliminary issue and then to dispose of the interim application only after pronouncement of the order in Ext.P7 application. I am afraid that I cannot do it as this Court cannot interfere with the administration of justice at each and every stage. When an injunction petition is filed and a counter is filed challenging the very maintainability of the suit, normally the Court below has to consider it and pass orders in accordance with law. Or in other words, the order of disposal of temporary injunction petition also will take in the issue of maintainability of the suit for the reason that unless the

Court has jurisdiction, the Court cannot pass an order. So it is not proper to direct the Court below not to pass final orders in the interim injunction application. But at the same time the Court may consider Ext.P7 application in accordance with law, if necessary, and dispose of it on merits.

The writ petition is disposed of accordingly.

M.N. KRISHNAN, JUDGE.

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